

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)
 Petitioner)
)
 V.)
)
RICHARD A. GORDON)
)
 Respondent)

M.B.D. No.

05-MC-10318 RGS

**PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, on behalf of its agency, the Internal Revenue Service, and by its attorney, Michael Sullivan, United States Attorney for the District of Massachusetts, state that:

1. This proceeding for the enforcement of an Internal Revenue Service Summons is brought pursuant to sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. sections 7402(b) and 7604(a).
2. David Malo is a Revenue Officer of the Internal Revenue Service authorized to issue summonses under the Internal Revenue Laws.
3. The respondent, Richard A. Gordon resides or is found at 2 Chaney Avenue, Fairhaven, Massachusetts 02719 within the jurisdiction of this Court.
4. Section 6020(b) of the Internal Revenue Code of 1986, 26 U.S.C., authorizes the Secretary of the Treasury, acting by his agents and employees in the Internal Revenue Service, to make a return from his own knowledge and from such information as he can obtain through testimony or otherwise for a person who fails to file a return. For the purpose of making such a return, Section 7602 authorizes the Secretary to issue a Summons to the person to appear at a time and place named in the Summons, to produce such books, papers, records or other data, and to testify, as may be relevant or material to making the return.
5. On April 21, 2005, Revenue Officer David Malo issued, pursuant to Section 7602 of the Internal Revenue Code of 1986, a summons to Richard A. Gordon, directing him to appear before Revenue Officer David Malo at 166 Main Street, Brockton, MA 02301 at 8:30 A.M. on May 9, 2005 and to produce for examination (and give testimony relating to) documents and financial records for the year(s) ending December 31, 2002 and December 31, 2003.

A copy of the Summons is attached to this Petition as "Exhibit A". On April 21, 2005, Revenue Officer David Malo served the Summons on Richard A. Gordon by leaving an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. Revenue Officer David Malo signed a certification on the face of the copy of the Summons served that it is a true and correct copy of the original.

6. Richard A. Gordon has failed and refuses to comply with the Summons.

7. The records sought by the Summons are not now in the possession of the Internal Revenue Service, and their production by Richard A. Gordon for examination by an officer of the Internal Revenue Service is necessary to make federal income tax returns for the year(s) ending December 31, 2002 and December 31, 2003.

WHEREFORE, the petitioners pray that:

1. Richard A. Gordon be ordered to show cause, if any he has, why he should not obey the Summons;

2. Richard A. Gordon be ordered to obey the Summons at a time and place to be fixed by Revenue Officer David Malo or by any other officer of the Internal Revenue Service authorized to examine the records and take testimony; and

3. The cost of this action to be awarded to the United States.

By its attorney,

MICHAEL J. SULLIVAN
United States Attorney

By: 

ANTON P. GIEDT
Assistant U.S. Attorney
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 9200
Boston, MA 02210
(617) 748-3282

Dated: AUGUST 23, 2005



Summons



In the matter of Richard A. Gordon, 2 Chaney Avenue, Fairhaven, MA 02719-1806

Internal Revenue Service (Division): Small Business/Self Employed

Industry/Area (name or number): Small Business/Self Employed - Non SBSE Field Area

Periods 12/31/2002, 12/31/2003

The Commissioner of Internal Revenue

To Richard A. Gordon

At 2 Chaney Avenue Fairhaven, MA 02719

You are hereby summoned and required to appear before David Malo, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents and records in your possession or control reflecting the receipt of taxable income by you for the year(s) 12/31/2002, 12/31/2003, including but not limited to: statement of wages for the year(s) 12/31/2002, 12/31/2003; statements regarding interest or dividend income for the year(s) 12/31/2002, 12/31/2003; employee earnings statements for the year(s) 12/31/2002, 12/31/2003; records of deposits to bank accounts during the year(s) 12/31/2002, 12/31/2003; and any and all other books, records, documents, and receipts regarding wages, salaries, tips, fees, commissions, and any other compensation for services (including gains from dealings in property, interest, rental, royalty and dividend income, alimony, annuities, income life insurance policies and endowment contracts, pensions, income from the discharge of indebtedness, distributive shares of partnership gross income, and income from an estate or trust), so that Federal Income Tax liability for the year(s) 12/31/2002, 12/31/2003 (for which year(s) no return have been made) may be determined.

Attestation

I hereby certify that I have examined and compared this copy of the summons with the original and that it is a true and correct copy of the original.

Signature of IRS Official Serving the Summons

Revenue Officer, 0403812

Title

Business address and telephone number of IRS officer before whom you are to appear:

166 Main Street, Brockton, MA 02301 508-895-8837

Place and time for appearance at: 166 Main Street, Brockton, MA 02301



Department of the Treasury

Internal Revenue Service

www.irs.gov

Form 2039(Rev. 12-2001)

Catalog Number 21405J

on the 9th day of May, 2005 at 8:30 o'clock A m.

Issued under authority of the Internal Revenue Code this 20th day of June, 2005

Signature of Issuing Officer

Revenue Officer

Title

Signature of Approving Officer (if applicable)

Title

Part A -- to be given to person summoned



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date	Time
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How Summons Was Served

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): Undersigned third party
3. ☐ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address:

Signature	Title
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4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____ Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

How Notice Was Given

- | | |
|---|--|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. | <input type="checkbox"/> I gave notice by handing it to the noticee. |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. |
| | <input type="checkbox"/> No notice is required. |

Signature	Title
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I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature	Title
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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
Petitioner)

V.)

RICHARD A. GORDON)

Respondent)

M.B.D. No.

05-Mc-10318 RGS

ORDER TO SHOW CAUSE

Upon the Petition, the Exhibit(s) attached thereto, including the Declaration of David Malo, Revenue Officer of the Internal Revenue Service, and upon the motion of Michael Sullivan, United States Attorney for the District of Massachusetts, it is

ORDERED that the respondent appear before the District Court of the United States for the District of Massachusetts, in that branch thereof presided over by the undersigned, in courtroom # _____ in the United States Courthouse in _____ on the _____ day of _____, 200__, at _____ M, to show cause why he should not be compelled to obey the Internal Revenue Service Summons served upon him on April 21, 2005. It is further

ORDERED that a copy of this Order, together with the Petition and Exhibit(s) thereto, be personally served upon Richard A. Gordon on or before _____, 200__.

It is further

ORDERED that within five days of service of copies of this Order, the Petition and Exhibit(s), the respondent shall file and serve a written response to the Petition.

DATED at _____, Massachusetts on this ____ day of _____, 200__.

UNITED STATES DISTRICT JUDGE